

HANDBOOK FOR EMPLOYERS ON UNEMPLOYMENT INSURANCE



An Information Pamphlet prepared by the
UNEMPLOYMENT INSURANCE DIVISION
Department of Labor and Industrial Relations
State of Hawaii

NOVEMBER 1998

STATE OF HAWAII

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

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TO EMPLOYERS:

This handbook has been prepared to provide you with a simplified explanation of the Hawaii Employment Security Law and Rules and Regulations. It has been designed to assist you in understanding the basic provisions of the law and to help you in fulfilling your responsibilities and protecting your rights as an employer.

The Unemployment Insurance Division is responsible for identifying and registering employers covered by the Employment Security Law, collecting contributions as required by law, and paying benefits promptly to eligible unemployed workers. The objective of the Unemployment Insurance program is to provide temporary payments to workers who have lost their jobs through no fault of their own and meet all requirements of the law. The benefit payments replace a portion of the unemployed person's wage loss while that person is seeking another job. The benefits paid also serve to stabilize the economy of the community by maintaining in part the local purchasing power. The program is a Federal-State venture administered through the State Department of Labor and Industrial Relations and financed by the Federal and State unemployment taxes on employers.

The Hawaii Employment Security Law was enacted in 1937 and subsequent amendments to the law have been made to keep current with the changes in Hawaii's social and economic structure and conditions. Please keep this handbook for reference. We hope that this handbook will bring to you a better understanding of the program. If you have any specific problems not covered in this handbook, please contact our staff by writing to:

Unemployment Insurance Division
830 Punchbowl Street
Honolulu, HI 96813

Very truly yours,

LORRAINE H. AKIBA
Director
Department of Labor and
Industrial Relations

DOUGLAS I. ODO
Administrator
Unemployment Insurance Division

**OFFICES OF THE UNEMPLOYMENT INSURANCE DIVISION
ARE LOCATED AT**

OAHU:

Administrator's Office
830 Punchbowl St., Rm. 325
Honolulu, HI 96813
Ph: 586-9069
Fax 586-9077

Oahu Branch Office
830 Punchbowl St., Rm. 324
Honolulu, HI 96813
Ph: 586-8946
Fax 586-8958

Employer Services Section
830 Punchbowl St., Rm. 437
Honolulu, HI 96813
Ph: 586-8913
Fax 586-8929

Honolulu Claims Office
830 Punchbowl St., Rm. 110
P.O. Box 4090
Honolulu, HI 96812-4090
Ph: 586-8970 or 586-8971
Fax 586-8980

Waipahu Claims Office
Waipahu Civic Center
94-275 Mokuola St., Rm. 301
P.O. Box 907
Waipahu, HI 96797
Ph: 675-0030
Fax 675-0025

Kaneohe Claims Office
45-1141 Kamehameha Hwy.
P.O. Box 1277
Kaneohe, HI 96744
Ph: 233-3677
Fax 233-3684

HAWAII:

Hawaii Branch Office
and Employer Services Section
Kaiko'o Mall
777 Kilauea Avenue, Ste. 122
Hilo, HI 96720
Ph: 974-4086
Fax 974-4085

Kona Claims Office
Kealahakua Post Office Bldg.
81-990 Halekii St.
P.O. Box 167
Kealahakua, HI 96750
Ph: 322-4822
Fax 322-1713

MAUI:

Maui Branch Office
and Employer Services Section
54 South High St., Rm. 201
Wailuku, HI 96793
Ph: 984-8400
Fax 984-8444

MOLOKAI:

Molokai Claims Office
55 Makaena St # 4
P.O. Box 1858
Kaunakakai, HI 96748
Ph: 553-3631
Fax 553-3427

KAUAI

Kauai Branch Office
and Employer Services Section
3100 Kuhio Hwy., Rm. C-12
Lihue, HI 96766
Ph: 274-3043
Fax 274-3046

EMPLOYMENT SECURITY APPEALS OFFICE

830 Punchbowl St., Rm. 429
Honolulu, HI 96813
Ph: 586-8930
Fax 586-8944

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Internet Access

Current, updated unemployment insurance information for employers is available on the Internet at the following address: <http://www.aloha.net/~edpso>.

I. CONTRIBUTIONS

COVERAGE EXCLUSIONS

Employers who hire one or more individuals and/or who do business in Hawaii may be subject to coverage under the Hawaii Employment Security Law with the following exclusions:

Agricultural labor if the employer paid less than \$20,000 total cash wages during each calendar quarter in both the current and the preceding calendar years and if the employer had in each of the current and the preceding calendar years (1) nine employees or less performing agricultural labor in any one calendar week, whether or not the same individuals did such labor in each week, or (2) 19 calendar weeks or less, whether consecutive or not, in which agricultural labor was performed by the employees. (Weeks of employment in the current and the preceding years cannot be combined when determining coverage.)

Domestic service performed for a person who paid cash remuneration of less than \$1000 to all individuals employed in any calendar quarter in the current or preceding calendar year.

Casual labor not in the course of employer's trade or business, earning less than \$50 per quarter and working less than 24 days per quarter in the current or preceding calendar quarters.

Service of one or more employees for less than 20 weeks in the current or preceding calendar year on a fishing vessel weighing 10 net tons or less. (Weeks of work in the current and preceding years cannot be combined to meet the 20 weeks of employment.)

Family employment (parents, spouse, or children under 21 years of age).

Employment with federal or other state governments.

Service by workers for nonprofit organizations earning less than \$50 per quarter.

Service by ordained members of a church.

Service by regularly enrolled students for a school, college, or university, and by a student enrolled in a full-time program at a nonprofit or public educational institution which combines academic instruction with work experience (school to work).

Service for a foreign government.

Service by student nurses and interns.

Service by insurance agents remunerated solely on commission basis.

Service by individuals under 18 years of age delivering newspapers.

Service by enrollees in Job Corps and Neighborhood Youth Corps programs and Volunteers in Service to America under the Federal Economic Opportunity Act of 1964.

Service by a registered travel sales representative remunerated by way of commission.

Service by a vacuum cleaner salesperson remunerated solely by commission.

Service by real estate agents remunerated solely on commission basis.

Service by family members who each own at least 50% of the shares of a family-owned corporation. Employers, however, should consider the following before electing the exclusion: (1) the employer must apply for the exclusion which is irrevocable for five (5) years; (2) employees are not eligible for unemployment insurance benefits if the business closes; (3) the employer remains liable for Federal Unemployment (FUTA) Taxes which may be higher because the employer would not be eligible for the 5.4% FUTA tax credit provided to covered employers.

Service by a direct seller as defined in section 3508, Internal Revenue Code of 1986, as amended.

Employment in Hawaii's State and local governments is covered for benefit payment purposes. Unless the State or county government has elected to pay contributions, they must make quarterly advance payments on a dollar for dollar basis to finance benefits paid to their former employees.

American citizens performing services for American employers outside the U.S.A. are covered.

Services performed by an election official or election worker as defined in section 3309(b)(3)(F) of the Internal Revenue Code or 1986, as amended.

SELF-FINANCING

Non-profit organizations (religious, charitable, and educational) qualifying for income tax exemption under the Internal Revenue Code may apply for exemption from paying contributions by requesting to be placed on a self-financing basis. Employers desiring to participate in the self-financing program should contact the nearest Unemployment Insurance Office and file notice of election with the UI Division. Each self-financing employer must remit a security deposit of .2% of the total wages of the preceding calendar year, and this deposit will be held in escrow until the employer withdraws from the self-financing plan and total liability under the self-financing election is terminated. The security deposit will be returned less any deductions provided by law.

VOLUNTARY ELECTION

Employers not subject under the law may obtain coverage voluntarily by filing a written application with the Employer Services Section (page iii). Such voluntary elections must be for at least two calendar years. Upon written approval of such application, coverage begins the first day of the calendar quarter in which the application is approved. Coverage may be terminated by a written notice filed at least 30 days prior to the end of the second or a subsequent calendar year.

INDEPENDENT CONTRACTORS

To be considered an "Independent Contractor," all of the following conditions outlined by the "ABC Test" must be met:

- A. Individual must be free from control or direction; and
- B. Service must be performed outside the usual course of business or place of business; and
- C. Individual must be customarily engaged in an independent occupation, trade, profession, or business of the same nature as that involved in the contract of service.

Service performed by an independent contractor is not covered under the unemployment insurance law and is not considered employment. Before excluding workers as independent contractors, employers should contact the Employer Services Section (Page iii) and request a determination. Failure to do so may result in an assessment or delinquent contributions, penalty and interest from retroactive coverage.

REGISTRATION

Every individual or organization which becomes an employing unit must file a status report (Form BB-1, "Basic Business Application"), with the UI Division within twenty days after hiring an employee. Determination of liability will be made and a subject employer will be assigned an identification number and tax forms will be furnished. New employers will be issued a "Notice to Workers" poster which should be posted at each work place. The poster will furnish information to workers on their benefit rights and locations of the Unemployment Insurance Offices throughout the State.

If an employer has terminated business or terminated all employees from employment, changed address or type of business, the employer should notify the Employer Services Section on Form UC-25, "Notification of Changes."

INDUSTRIAL CLASSIFICATION

The collection and analysis of industrial data are essential for statistical reporting purposes and for internal operating research and planning. The data is valuable in dealing with administrative problems for which a knowledge of movements in various industries is required. A system of coding has been established to facilitate the compilation and analysis for these purposes. All newly established accounts are coded on the basis of the description of the type of activity in which the employer is engaged as shown on the registration report. Since the breakdown of each industry is detailed and intensive, it is important that employers furnish as accurate a description as possible in Form BB-1. For any subsequent change in type of business, the employer should notify the Employer Services Section immediately.

QUARTERLY WAGE, CONTRIBUTION AND EMPLOYMENT AND TRAINING ASSESSMENT REPORT

All subject employers, including reimbursable employers and employers with a 0.00% tax rate are required to submit Form UC-B6, "Quarterly Wage, Contribution and Employment and Training Assessment Report," on or before the last day of the month following the close of the calendar quarter (first quarter: April 1 - 30; second quarter: July 1 - 31; third quarter: October 1 - 31; fourth quarter: January 1 - 31). Form UC-B6 must be filed each quarter even though you did not pay any wages during the quarter.

Failure to file Form UC-B6 may result in a tax being assessed by the UI Division. (See "Office Assessment.") In addition, if an employer has not submitted Form UC-B6 for any of the prior quarters at the time the employer is experience rated (at the beginning of each year), the employer will be assessed the maximum

rate of 5.4%. If "excusable failure" can be established for being delinquent, the employer can request a redetermination. The employer must:

1. Submit a request for redetermination in writing;
2. Include a detailed explanation for the delinquency;
3. Include all outstanding reports that were not filed, filed incorrectly, or returned for completion by the UI Division but not resubmitted as required; and
4. Submit the request to the nearest unemployment insurance office by December 31st of the year for which the contribution is assessed.

Form UC-B6 requires an employer to report the following:

1. Number of covered workers in each month during the quarter.

Employers should enter the number of workers per month who are covered by the Hawaii Employment Security Law and who worked during or received pay for the payroll period that includes the twelfth day of each month. Include all full and part time workers, workers who were on paid vacation or paid sick leave, and workers who earned wages in excess of the taxable wage base. Exclude persons who were on leave without pay; earned no wages during the applicable pay periods because of strikes, work stoppages, or temporary layoffs; or who earned wages during the month, but not during the applicable pay periods. If the employer had no employment during any one or more months of the quarter, the employer should enter a zero in the box(es) under the appropriate month.

The employment data provided by employers on quarterly contribution reports is of vital importance in a number of national statistics used widely by the federal government: Bureau of Labor Statistics, Department of Commerce, and Unemployment Insurance Service.

2. Quarterly contribution.

The contribution rate based upon the rate schedule in effect for the calendar year will be printed on Form UC-B6. To determine the quarterly contribution amount due, the total taxable wages (see "Taxable Wages") is multiplied by the contribution rate and entered on Form UC-B6.

3. Quarterly wage record.

Employers must list the names, social security numbers, and total wages paid to all the covered workers employed during the quarter. If additional space is needed to report the quarterly wages for additional employees, an employer must use Form UC-B6A, "Employer's Quarterly Report of Wages." The forms are mailed to employers 15 days before the end of the quarter. No other forms can be substituted for the forms provided by the UI Division without prior approval.

Information reported by employers with respect to quarterly wages paid to employees will be reported to the National Directory of New Hires for the purpose of locating and identifying child support obligors. The establishment of the National Directory of New Hires was mandated by P.L. 104-193 (Welfare Reform Act).

4. Employment and Training (E&T) Assessment.

Beginning on January 1, 1992 and ending on December 31, 2000, employers will also be subject to a State Employment and Training (E&T) assessment at a rate of 0.05% of the taxable wages. Effective July 1, 1997 and ending December 31, 1998, employers will not be subject to the E&T assessment. This temporary suspension does not relieve employers of any liability accrued based on wages paid prior to July 1, 1997. The E&T assessment will be reinstated from January 1, 1999 through December 31, 2000.

This assessment does not apply to reimbursable, 0.0%, or 5.4% rated employers. No portion of the State E&T assessment will be credited to the employer's reserve account. To determine the E&T amount due, the total taxable wages (see "Taxable Wages") is multiplied by the 0.05% E&T assessment and entered on Form UC-B6. The E&T assessment amount cannot be taken as a credit against the Federal Unemployment (FUTA) tax.

5. Amount of payment due.

To determine the total amount an employer must pay, the employer must add the employer's quarterly contribution to the employment and training assessment and enter the total on Form UC-B6.

Payment in the amount totaled should be attached to the Form UC-B6 and made payable to the:

State Tax Collector
P.O. Box 3223
Honolulu, HI 96801

Contributions paid to the State are placed in a trust fund for payment of unemployment insurance benefits. Employment and training assessments are deposited in a special fund for the operation of the Workforce Development Division and job training programs.

MAGNETIC MEDIA REPORTING

Employers may choose to report wage data on magnetic media instead of on the forms provided by the UI Division. Reporting wage data via magnetic media is encouraged to reduce errors; reduce handling, processing, and storage costs; and to provide better security and confidentiality of wage data. Real-to-reel 9-track tape, 3480 automatic cartridges, and 5-1/4 or 3-1/2 inch DOS formatted floppy diskettes are acceptable options for wage reporting. Also available free of charge to employers with access to an IBM-compatible personal computer is a software program for automating your quarterly wage reports. Employers interested in magnetic media reporting should contact the UI Division for additional information on options for magnetic media reporting.

WAGES

"Wages" include all remuneration for services from whatever source including commissions, bonuses, tips paid to an employee which were reported to an employer, and payments in any medium other than cash. There are, however, a few exclusions, such as payments to welfare plans, pension payments to retired workers, payments to employees serving in the armed forces, and payments to sick employees where there is a sick plan in effect. These excluded wages should not be included in the total wages reported on the quarterly wage/contribution report.

A reasonable monetary value should be determined and reported for any remuneration paid in any medium other than cash for services performed. Minimum values for board and lodging have been established by administrative rule as follows:

Full room and board - weekly	\$28.00
Meals, per week	18.90
per day	2.70
per meal	.90
Lodging, per week	9.10
per day	1.30

TAXABLE WAGES

The taxable portion of an employee's annual wages is limited to the "tax base" for that calendar year. An individual employee's wages in excess of the "tax base" are not taxable. The "tax base" is equal to the State's average annual wages of employers contributing to the Unemployment Trust Fund and is computed at the beginning of each calendar year. The tax base is shown on Form UC-B6. Current information on the "tax base" can be accessed on the internet at <http://www.aloha.net/~edps0>.

Wages paid by an employer who has succeeded to the business of another employer during a calendar year, may be combined with the wages paid by the predecessor to compute the taxable base for employees of the successor. Wages paid by an employer to an employee reported to another state during the calendar year may be combined with Hawaii wages.

Employers are required to report on their quarterly wage/contribution reports the total cash wages paid, remuneration paid in any medium other than cash, wages in excess of the established tax base, and net taxable wages. For each quarter, wages should be reported during the quarter in which they were paid and not when they were earned. For example, if wages were earned during the last week of the first quarter but not paid until the second quarter, report the wages in the second quarter.

MULTIPLE WORKSITE REPORT

Employers may be requested to report employment and wages by each worksite or physical location on BLS 3020, Multiple Worksite Report (MWR). Forms are mailed quarterly. Employers are selected by the Research and Statistics Office and information received is used to estimate employment and wages.

PENALTIES

Employers will be assessed the following penalties for:

1. **Late Contribution and Employment and Training Assessment**
Payment: a penalty of 10% but not less than \$10 will be assessed if contributions are not paid by the due date. Interest at the rate of two-thirds of one percent on the contributions and penalty unpaid within 15 days after the due date will be assessed for any month or fraction of a month that employer is delinquent. Also, employers cannot receive the full federal tax offset credit (see "Delinquent Contributions"). The penalty applied to late contribution payments will be similarly applied to late employment and training assessments.

2. Late Quarterly Wage/Contribution Reports (Forms UC-B6 and UC-B6A): a penalty of \$30 if both quarterly wage and contribution reports are not submitted on or before the last day of the month following the close of a calendar quarter. In addition, benefit overpayments caused by inaccurate, incomplete or late reports, in the absence of claimant fraud, will be charged to the employer's reserve account and employers will be assessed the maximum rate of 5.4% (see "Quarterly Wage, Contribution and Employment and Training Assessment Report").
3. Late Separation Reports (Form UC-BP-35): a penalty of \$10 for not submitting a separation report within five calendar days (not including weekends and holidays) from the date the form is mailed. In addition, if a claimant is overpaid benefits because a separation report was incomplete, inaccurate or submitted late, in the absence of claimant fraud, all benefits overpaid up to the date the Form UC-BP-35 was received will be charged to the employer's reserve account (see "Request For Separation Information").

APPEAL RIGHTS

An employer who disagrees with an assessment or penalty, after first paying the amount assessed, may file an appeal within 20 days after the date the assessment notice was mailed.

The appeal will be heard by the Employment Security Appeals Referee.

OFFICE ASSESSMENT

If an employer fails to file a quarterly wage/contribution report or remit payment, notification will be sent on the "Monthly Statement of Account". If the employer continues to be delinquent, a tax will be assessed based on available information. Notification of the assessment will be sent on the "Notice of Tax Assessment (OA)". The assessment will show the wages used for the assessment, the tax, the office assessment penalty and the interest due. If the employer fails to file a corrected report or appeal within 20 days after the date the notice was mailed, the assessment will become final. If the employer also fails to remit payment, that employer will be subject to a lien. A lien attaches real and personal property of the employer. In addition, an employer may also be subject to a field audit.

CONTRIBUTION OVERPAYMENTS

When the employer finds that contributions have been overpaid, the employer should notify the UI Division in writing of such overpayment, indicating the reason for the overpayment, the quarter for which the overpayment was made, the wages reported and contributions paid, the correct wages that should have been reported and the contributions that should have been paid. When the overpayment is established, the employer will be sent a "Notice of Credit".

The employer should attach this notice to the next quarterly contribution report and apply the credit against the contributions due. If the employer has terminated business or employment and is unable to offset such credit or if the payment is of such a substantial amount that the credit cannot be cleared by applying against the contributions due within a year's time, the employer may request in writing a cash refund from the UI Division.

CONTRIBUTION RATES AND SCHEDULES

An employer's contribution rate is based on a multi-schedule contribution rate system. The schedule to be used for the year depends on the ratio of the current reserve fund to the adequate reserve fund. The contribution rate for new or newly covered employers will be the same the contribution rate assigned to employers with .0000 reserve ratios.

Employers will be advised of their contribution rates in March of each year. The contribution rate is based upon the ratio of the employer's reserve balance to the employer's average annual payroll. The contribution rate can be found by locating the tax rate associated with the reserve ratio in the following table. Contribution rates are in percentages.

Example: Assume that an employer's rate for is .0501 and Schedule D is in effect for the year. To find the contribution rate, locate the Reserve Ratio .0501 on Schedule D. The contribution rate for that reserve ratio is 2.2%.

CONTRIBUTION RATE SCHEDULES (rates in percentages)

<u>Reserve Ratio</u>	A	B	C	D	E	F	G	H
.1500 & over	0.0	0.0	0.0	0.2	0.6	1.2	1.8	2.4
.1400 to .1499	0.0	0.0	0.1	0.4	0.8	1.4	2.0	2.6
.1300 to .1399	0.0	0.0	0.2	0.6	1.0	1.6	2.2	2.8
.1200 to .1299	0.0	0.1	0.4	0.8	1.2	1.8	2.4	3.0
.1100 to .1199	0.0	0.2	0.6	1.0	1.4	2.0	2.6	3.2
.1000 to .1099	0.1	0.3	0.8	1.2	1.6	2.2	2.8	3.4
.0900 to .0999	0.3	0.5	1.0	1.4	1.8	2.4	3.0	3.6
.0800 to .0899	0.5	0.7	1.2	1.6	2.0	2.6	3.2	3.8
.0700 to .0799	0.7	0.9	1.4	1.8	2.2	2.8	3.4	4.0
.0600 to .0699	0.9	1.1	1.6	2.0	2.4	3.0	3.6	4.2
.0500 to .0599	1.1	1.3	1.8	2.2	2.6	3.2	3.8	4.4
.0300 to .0499	1.3	1.5	2.0	2.6	3.0	3.6	4.2	4.8
.0000 to .0299	1.7	1.9	2.4	3.0	3.4	4.0	4.6	5.2
-.0000 to -.0499	2.1	2.3	2.8	3.4	3.8	4.4	5.0	5.4
-.0500 to -.0999	2.5	2.7	3.2	4.0	4.4	5.0	5.4	5.4
-.1000 to -.4999	2.9	3.1	3.6	4.6	5.0	5.4	5.4	5.4
-.5000 to -.9999	3.4	3.6	4.2	5.2	5.4	5.4	5.4	5.4
-1.0000 to -1.4999	4.1	4.2	4.8	5.4	5.4	5.4	5.4	5.4
-1.5000 to -1.9999	4.7	4.8	5.4	5.4	5.4	5.4	5.4	5.4
-2.0000 and less	5.4	5.4	5.4	5.4	5.4	5.4	5.4	5.4

Current information on which schedule is in effect is available on the Internet at <http://www.aloha.net/~edps0>.

EXPERIENCE RATING

Under an experience rating plan, an employer may be eligible for a reduced rate if certain conditions are met after the account has been charged with benefits for the twelve-month period prior to the rate computation date (December 31). The new rates are computed for eligible employers at the beginning of each year. In March, each employer is furnished a "Contribution Rate Notice" with the reserve balance and wage and contribution data for the last three years. Employers should compare the data with their records and verify the computation of the contribution rate. If an error is found in the computation of the rate or in the wages reported, an employer should explain the error and request a review and redetermination in writing within 15 days from the date the "Contribution Rate Notice" is mailed. Any increase in taxable wages or decrease in the reserve due to benefit charges may result in rate increases. The contribution rate for new or newly covered employers is the same as the contribution rate assigned to employers with .0000 reserve ratios.

For active employers, including employers with "0.0%" tax rate, who have failed to submit any one of their contribution reports for the prior quarters, an experience rate tabulation is not calculated because the employer is assessed the maximum rate of 5.4% unless the employer can establish good cause for the late filing as described in the "Quarterly Wage, Contribution and Employment and Training Assessment Report" section.

TRANSFER OF EMPLOYER'S EXPERIENCE RECORD

Employing units which acquire substantially all of a trade, organization, or business may apply for transfer of the predecessor's experience record provided the following conditions are met:

1. Form UC-86 (Waiver of Employer's Experience Record) must be filed and signed by both the predecessor and successor employers;
2. The successor employer must continue to employ all or nearly all of the predecessor's employees; and
3. The predecessor employer must remit all outstanding contributions and submit all information and reports required by the UI Division.

The Form UC-86 should be filed:

- 1) within 60 days of the transfer for newly subject successor employers to get the rate of the predecessor/predecessors if all predecessor employers have the same rate. If the predecessor employers have different rates, the successor will receive the rate assigned to employers with .0000 reserve ratios.
- 2) by March 1 of the year following the transfer for successor employers already subject to the Hawaii Employment Security Law to get a rate for the new year based on the combined experience of both the successor and predecessor's records.
- 3) by December 31 of the year following the transfer in order for the UI Division to honor any request for transfer of experience record.

Employers interested in applying for a transfer should contact an Employer Services Section listed on page iii.

FEDERAL TAX CREDIT

The Federal government imposes on employers with one or more employees employed for 20 or more weeks or who had payrolls of \$1,500 or more during any calendar quarter in the current or preceding year an unemployment tax in addition to the State tax. Employer subject to the Federal unemployment tax can claim credit against Federal taxes on contributions paid to the State. Maximum credit will be granted by the Federal government if State contributions are paid on time, even though the employer paid the State contributions at a reduced rate. In order that full credit may be obtained, employer should pay State contributions in full and on time.

DELINQUENT CONTRIBUTIONS

An employer who is delinquent for unemployment contributions cannot receive full credit allowable against the Federal unemployment tax nor can the employer obtain a reduced contribution rate if a reserve has not been built through contribution payments. If the employer is unable to clear the delinquent contributions in full, arrangements may be made with the UI Division for installment payments. Failure to remit payments will result in the UI Division filing tax liens with the State Bureau of Conveyances. The lien attaches real and personal property of the debtor. For continued delinquencies, the UI Division may collect the amount due by civil action through the district courts.

REQUEST FOR SEPARATION INFORMATION

When a former employee applies for unemployment benefits, the UI Division will request separation information on Form UC-BP-35, "Request for Separation Information." The form must be submitted within five calendar days (excluding weekends and holidays) from the date the form is mailed. Penalties relative to the UC-BP-35 are described in the "Penalties" section.

An employer who feels that there may be an issue with respect to an individual's entitlement to benefits and would like to present additional information if a claim is filed, should so indicate on Form UC-BP-35, "Request for Separation Information." The employer will then be contacted when a claim is filed and may either make an appointment to see a claims examiner or submit a written statement.

NOTICE OF LABOR DISPUTE

In case of unemployment due to strike, lockout, or other labor dispute, the employer affected must file with the Director of Labor and Industrial Relations not later than 24 hours after such unemployment occurs, a notice setting forth the existence of such dispute.

BENEFIT CHARGES

Benefits that are paid to an individual are charged to an employer's account according to the proportion of wages the employer paid to the total wages paid by all employers in the individual's base period. However, *benefits are not charged* to contributory employers in the following cases:

1. Claimant quit work without good cause;
2. Claimant voluntarily quit work with good cause not attributable to the employer;
3. Claimant was discharged for misconduct connected with work;
4. Claimant worked part-time in the base period and continues to work to the same extent while receiving benefits;
5. Claimant is enrolled in a vocational or retraining course approved by the Director;
6. Claimant qualifies only by combining wages earned in two or more states;
7. Claimant was overpaid benefits due to ineligibility or disqualification unless the employer was at fault in failing to provide information required by law;
8. Claimant was laid off from work as a direct result of a major disaster;
9. The State portion of extended benefit payments.

A benefit charge statement identifying each claimant and the amount of benefit charges is sent quarterly to contributory employers and monthly to self-financed employers. Upon receipt of the Statement, the employer should examine the charges carefully by comparing them against the payroll records for employment of the individuals listed and against the "Employer's Notice of Unemployment Insurance Benefits" (see "Notice of Determination" section) for "charge" or "noncharge" determination, and the percentage of charges computed at the time the claim was filed.

RECORDS TO BE KEPT BY EMPLOYERS

Employers are required by law to keep accurate work records of their employees. The records must be kept for at least five years after the calendar year

in which the remuneration was earned:

- I. For each individual worker - unless it has been ruled that the services are not employment:
 - a. Name and social security account number;
 - b. Type of work performed;
 - c. Locations where worked and place of residence if worked outside the State;
 - d. Date hired, rehired, or returned to work after temporary layoff;
 - e. Last day worked, date separated from work and reason for separation;
 - f. Rate of pay, amount of wages paid for each pay period and dates paid, segregated by cash, gratuities or tips, and payments made in any other medium;
 - g. Amount paid as allowances or reimbursement for traveling or business expenses, date of payment, and amounts of such expenditures actually incurred and accounted for by the worker;
 - h. For each pay period in which individual performs services in both subject employment and nonsubject work, the hours spent and wages earned in each, shown separately.
2. A general record of:
 - a. Beginning and ending dates of each pay period;
 - b. Total amount of remuneration paid in each quarter for employment, showing separately the portion on which contribution is payable.

AUDITS

A field audit program is maintained by the UI Division. Accounts to be audited may be selected at random by industry, area, or other classifications. Records are also audited in individual cases where there appears to be discrepancies in reporting, or where the employer's liability under the law needs to be determined.

QUALITY CONTROL PROGRAM

The UI Division also operates a Quality Control Program to detect and prevent benefit payment errors and abuse. Unemployment Insurance claims are randomly selected each week for comprehensive review to insure the validity and accuracy of payments made. The verification process involves personal visits to employers in order to review the payroll records, the reason for separation, and the work search contacts of each claimant chosen for review.

II. BENEFITS

BENEFIT ELIGIBILITY

Insured workers who are unemployed may be eligible for benefits. In order to receive such benefits, an unemployed person must:

1. File an initial claim in person with the Unemployment Insurance Office and continue to file claim certifications as instructed;
2. Register for work at the nearest Workforce Development Division office within seven (7) days from the date of filing;
3. Be ready, willing, and able to work;
4. Have been paid wages during the base period of at least 26 times the weekly benefit amount and in at least two quarters of the base period. The base period is the first four of the last five completed calendar quarters preceding the filing of a claim. If the claimant has sufficient wages to establish a valid claim, a weekly benefit amount will be established for the claimant that will remain unchanged for the duration of the claimant's benefit year. To establish a successive benefit year, in addition to meeting the wage qualification requirements as stated above, the claimant must, after the beginning date of the prior claim, have worked in covered employment and been paid an amount equal to five times the weekly benefit amount of the new claim.
5. Serve a one-week waiting period after filing the initial claim before any payments can be made. No benefits are paid for the waiting week.

AMOUNT OF BENEFITS PAYABLE

The total amount of benefits potentially payable to an eligible claimant during the claimant's benefit year (the one-year period following the effective date of the claim) is 26 times the weekly benefit amount. The claimant's weekly benefit amount, which is computed by using the base period wages (wages paid during the first four of the last five completed calendar quarters preceding the filing of the claim), equals 1/21 of the total wages paid in the claimant's highest quarter of the base period. However, despite the computed amount, no claimant can receive a higher weekly benefit amount than the State's maximum weekly benefit amount for the calendar year in which the claim is effective.

DISQUALIFICATIONS

Disqualification means the suspension of benefit payments. In the following instances, a claimant may be disqualified for an indefinite period that ends only when, following the week in which the separation or failure to apply for or accept suitable work occurs, the claimant is paid five times the claimant's weekly benefit amount in covered employment:

1. Quit without good cause;
2. Discharge for misconduct connected with work;
3. Failure to apply for, or to accept, suitable work.

A claimant may be disqualified for one to four weeks following the week in which the claimant has been suspended for misconduct connected with work.

Disqualification may also occur when a claimant is a) receiving other unemployment benefits, b) involved in a work stoppage, or c) filing a fraudulent claim. For filing a fraudulent claim, the claimant will be disqualified for the week in which the determination of fraud is made, and for each remaining week in the current and subsequent 24 calendar months.

PARTIAL UNEMPLOYMENT

A claimant who accepts all work offered by an employer and whose gross earnings are less than the claimant's weekly benefit amount may be paid partial benefits equal to the difference between the claimant's weekly benefit amount and the claimant's earnings over \$50.00. An employer who is unable to furnish full-time work to regular employees is required to submit low earnings information to the UI Division showing the employee's name, SSN, earnings, week ending date, reason for reduced work week, and whether the claimant accept all work offered.

RETIREMENT PAYMENTS

In general, pensions, retirement pay, or an annuity from a plan contributed to by a base period employer is deductible from a claimant's weekly benefit amount if the claimant's base period employment or wages affected the eligibility for, or increased the amount of the pension. The entire prorated weekly amount of the pension is deductible if the employer had contributed 50% or more to the plan. One-half of the prorated weekly amount of the pension is deductible if the employer contributed less than 50% to the plan. For social security old-age/social security disability retirement benefits, or railroad retirement benefits, one-half the prorated weekly amount is deductible. To make the proper deductions from the claimant's weekly benefit amount, the UI Division may request an employer for information about the claimant's pension benefits.

NOTICE OF DETERMINATION

The "Employer's Notice of Unemployment Insurance Benefits" is mailed to the employer when a former employee qualifies for a valid claim. The notice will show the claimant's name, beginning date of the benefit year, the weekly benefit amount, maximum benefits payable, the percentage of benefits which will be charged or not charged to the employer's reserve account, and the reason for charging/non-charging. See "Benefit Charges" section.

If the employer does not agree with the determination, the employer should file an appeal with the UI Division within ten calendar days after the notice was mailed. The Appeals Officer may, for good cause, extend the period for filing an appeal to 30 calendar days.

ISSUES

Employers are notified on Form UC-BP-23 (Notice of Decision on Unemployment Insurance Claim) of determinations on voluntary quits, discharges or suspensions for misconduct, or work stoppages. The decisions are made based on application of the Hawaii Employment Security Law to information furnished during fact finding interviews with interested parties.

BENEFIT APPEALS

Benefit appeals may be filed by employers or claimants when there is a disagreement on a determination. Form UC-AP-1 (Notice of Appeal) or a letter should be filed within 10 calendar days after the date of mailing of notice of determination. The Appeals Hearings Officer may, for good cause, extend the period for filing an appeal to 30 calendar days. Interested parties will be notified of the date, time, and place of the hearing and every effort should be made by all

parties concerned to attend the hearing. The Appeals Hearings Officer will conduct the hearing and issue a written decision. Either party may then request a reopening of the decision, or pursue judicial review of the Appeals Hearings Officer in the Circuit Court where the party resides, within the time allowed by law.

FRAUDULENT CLAIMS

In spite of the utmost vigilance that the UI Division exercises to safeguard the fund against improper payments, a small number of claimants file fraudulent claims. Employers can assist the UI Division in safeguarding the fund by reporting any information indicating the possibility of improper payments.

Individuals who make false statements to obtain benefits to which they are not entitled are subject to disqualification for benefits for the week in which fraud is determined and for each remaining week in the current and subsequent 24 calendar months. Depending on the gravity of the offense, cases of fraud may be prosecuted. If fraud is established by the court, fines and jail sentences may be imposed.

Upon discovery of fraud, benefits which were previously charged to an employer's reserve account will be credited back to the employer's account.

INTERSTATE RECIPROCAL AGREEMENT

Hawaii participates in an interstate reciprocal plan whereby a claimant who earned wage credits in Hawaii may move to another state and file a claim against Hawaii. Claimants may also use wage credits from Hawaii and another state under a wage combining program. In such cases employers in other states will be requested to furnish wage and separation reports.

MASS LAYOFFS

An employer who anticipates termination of a large number of employees should contact the UI Division to give notice of the scheduled layoff. The UI Division will assist the employer in expediting claim service.

EXTENDED BENEFITS

During specified periods of high unemployment, thirteen (13) weeks of extended benefits may be paid to an individual after the individual has exhausted regular unemployment benefits. Private employers on a contributory basis will not be directly charged for the cost of extended benefits. Instead, 50% of these benefits will be charged to the Unemployment Insurance Trust Fund. The remaining 50% will be financed by the Federal government. Nonprofit

organizations on a self-financed basis will be required to reimburse 50% of the cost of extended benefits paid to their former employees. The Federal government will finance the other 50% of the cost. State and county government employers will be charged 100% of the cost of extended benefits whether they are on a contributory or self-financed basis.

III. WORKFORCE DEVELOPMENT DIVISION

FUNCTIONS

The Hawaii Employment Security Law provides that public employment services offices shall be established and maintained to serve both employers and workers. At the outset, the Workforce Development Division (formerly Employment Service) functioned chiefly as a labor exchange, uniting the jobless with available jobs. Today, with its broadened responsibilities, the agency serves as a community worker resource committed to the conservation, development, and utilization of Hawaii's worker resources.

The Workforce Development Division provides the following services to employers:

PLACEMENT SERVICES through selection and referral of qualified applicants, including recruitment of professional and skilled applicants through a nation-wide network of 2,400 affiliated public employment offices;

TRAINING AND RETRAINING to meet employer's needs for skills in short supply;

LABOR AREA INFORMATION to assist in employment and planning, location or relocation of plants and facilities, etc.;

COMMUNITY PARTICIPATION with employer organizations and other agencies concerned with the development and utilization of our worker resources.

Employers are encouraged to use the facilities of the Workforce Development Division. There are no fees to applicants or employers for services. Jobs may be listed by calling your nearest Workforce Development Division office serving your island. Offices are located as follows:

Honolulu Office
Keelikolani Building
830 Punchbowl St., Rm. 112
Honolulu, HI 96813
Telephone: 586-8700

Kaneohe Office
45-1141 Kamehameha Hwy.
Kaneohe, HI 96744
Telephone: 233-3700

Waipahu Office
Waipahu Civic Center
94-275 Mokuola St
Waipahu, HI 96797
Telephone: 675-0010

Hilo Office
Kaiko'o Mall
777 Kilauea Avenue # 121
Hilo, HI 96720
Telephone: 974-4126

Kona Office
Kaiwi Square, Bldg. C, Bay 4
74-5565 Luhia Street
Kailua-Kona, HI 96740
Telephone: 327-4770

Wailuku Office
2064 Wells St., Ste. #108
#C10
Wailuku, HI 96793
Telephone: 984-2091

Kaunakakai Office
55 Makaena St. # 4

P.O. Box 929
Kaunakakai, HI 96748
Telephone: 553-3281

Kauai Office
3100 Kuhio Hwy., Ste.

Lihue, HI 96766
Telephone: 274-3056

IV. OTHER INFORMATION

WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT (WARN)

Under the Worker Adjustment and Retraining Notification Act (WARN), employers with 100 or more employees must give affected workers or their representatives, the State Department of Labor and Industrial Relations, and the appropriate local government at least 60 days advance notice of a plant closing or mass layoff (affecting 50 or more workers). Notification is required to allow the department time to mobilize and coordinate various governmental services to help workers cope with the trauma of layoff and to assist them with their efforts to becoming reemployed. However, employers do not need to notify the department if a business is closing because of a natural disaster or completion of a temporary project.

Notification to the Department must be in writing and include the following:

- Name and address of employment site where business closing or mass layoff will occur.
- Name and phone number of company official to contact for information.
- Whether the layoff or closing is temporary or permanent.
- Scheduled dates of employee layoffs.
- Job titles and number of employees who will lose their jobs.
- Whether workers have "bumping" rights.
- Name of union, and name and address of the union's chief elected officer.

Notification to workers and their union must also be in writing and must include the following:

- Name and address of the worksite where business closing or mass layoff will occur.
- Name and phone number of company official to contact about layoff plans.
- Whether the layoff or closing is temporary or permanent.
- Layoff date(s), closing date, and separation date(s).
- Name and job titles of individuals who will lose their jobs.
- Whether workers have "bumping" rights.

The information provided to employees should be in simple English.

Employers must send the written notice to:

Department of Labor and Industrial Relations
830 Punchbowl Street, Rm. 329
Honolulu, HI 96813

Upon receipt of notification from an employer, a member of the Department's "rapid response team" will contact the employer to arrange to provide services to assist the dislocated workers. These services include comprehensive employment and training programs, unemployment insurance, vocational counseling, job placement, and other required services.

HAWAII PLANT CLOSING NOTIFICATION AND DISLOCATION WORKER ALLOWANCE

Chapter 394B, Hawaii Revised Statutes, and Chapter 12-506, Hawaii Administrative Rules, provide for the Plant Closing Notification and Dislocated Worker Allowance programs which protect employees from the effects of unexpected and sudden layoffs or terminations resulting from closings, partial closings, and relocations due to the sale, transfer, merger, and other business takeover or transaction of business interests.

Employers of a covered establishment are required to do the following:

1. Give written notice not less than 45 calendar days prior to the closing, partial closing, or relocation to each employee and to the Director of the State Department of Labor and Industrial Relations;
2. Provide each affected employee who applies for and is found eligible for unemployment compensation benefits a dislocated worker allowance for a total of four weeks; and
3. Pay from the effective date of a closing, partial closing, or relocation to each employee all wages, benefits, and other forms of compensation due and owing to said employee.

For more information, call the Department of Labor and Industrial Relations at 586-8825.

AMERICANS WITH DISABILITIES ACT (ADA) REQUESTS FOR AUXILIARY AIDS/SERVICES

Auxiliary aids and services are available upon request. Call the respective office as listed in your handbook or (808) 586-8847 (TTY) Oahu, or 1-888-569-6859 (TTY) Neighbor Islands.